

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

United States of America,

Case No. 17-cr-20184-07

Plaintiff,

Judith E. Levy

vs.

United States District Judge

James Bowens,

Mag. Judge Mona K. Majzoub

Defendant.

_____/

**ORDER GRANTING MOTIONS TO DISMISS COUNT TEN [286,
338] AND DENYING DEFENDANT'S REQUEST [344]**

Defendant James Bowens filed a motion to dismiss Count Ten of the Third Superseding Indictment in light of the U.S. Supreme Court's decision in *United States v. Davis*, 588 U.S. __ (2019). (ECF No. 286.) In response, the government has also moved to dismiss Count Ten of the Third Superseding Indictment. (ECF No. 338.) Accordingly, the motions are **GRANTED**, and Count Ten of the Third Superseding Indictment is **DISMISSED**.

Defendant also recently filed a request that the Court transmit various materials to the Sixth Circuit (ECF No. 344), presumably this is

related to a notice of appeal he filed in May 2019 (ECF No. 271). There is no appealable order in this case, and therefore jurisdiction remains with this Court and not with the Sixth Circuit. *See* 28 U.S.C. § 1291; *see also United States v. Andrews*, 857 F.3d 734, 741 (6th Cir. 2017) (“As a general rule, a pretrial order denying a defendant's motion to dismiss an indictment is not an appealable final decision under [28 U.S.C. § 1291].” (alterations in original) (internal quotations omitted)). Defendant’s request (ECF No. 344) is **DENIED** as premature.

IT IS SO ORDERED.

Dated: July 23, 2019.
Ann Arbor, Michigan

s/ Judith E. Levy
JUDITH E. LEVY
United States District Judge